

FILED
APR 07 2010
CITY CLERK

RESOLUTION NO. 13, 2010

A Resolution of the Common Council of the City of Terre Haute, Indiana, Designating an Area Within the City of Terre Haute, Indiana, commonly identified as 1800 and 3181 North Fruitridge Avenue, as an Economic Revitalization Area for the Purposes of Personal Property Tax Abatement.

WHEREAS, a petition for ten (10) year personal property tax abatement has been filed with the Common Council of the City of Terre Haute requesting that the real property described therein be designated an Economic Revitalization Area for purposes of personal property tax abatement; and

WHEREAS, the petitioner, Sony DADC US, Inc., formerly known as Sony Digital Audio Disc Corporation, has submitted a Statement of Benefits and provided all information and documentation necessary for the Common Council to make an informed decision, said information including a description of the real property which is commonly known as 1800 and 3181 North Fruitridge Avenue, and more particularly described as follows:

(See attached Exhibit A)

WHEREAS, the Common Council of the City of Terre Haute is authorized under the provisions of I.C. 6-1.1-12.1-1 et seq., to designate areas of the City as Economic Revitalization Areas for the purpose of tax abatement; and

WHEREAS, the Common Council of the City of Terre Haute has considered the Petition and Statement of Benefits and has conducted a complete and proper investigation of the subject property and neighborhood to determine that the area qualifies as an Economic Revitalization Area under Indiana statutes; and

WHEREAS, the Common Council has found the subject property to be an area where facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and


WHEREAS, the Common Council of the City of Terre Haute has found the request for personal property tax abatement to satisfy the requirements of Special Ordinance 11, 1997, as amended; and

WHEREAS, the petitioner estimates the investment to be made on the subject site will provide the opportunity to retain 1200 jobs with an annual payroll of \$56,846,658, and have an estimated value of \$23,521,000 for new manufacturing equipment.

NOW, THEREFORE, IT IS FOUND, DETERMINED AND RESOLVED by the
Common Council of the City of Terre Haute that:

1. The petitioner's estimate of the cost of new manufacturing equipment to be installed is reasonable for manufacturing equipment of that type.
2. The petitioner's estimate of the number of individuals who will be retained can reasonably be expected to result from the proposed installation of additional new manufacturing equipment.
3. The petitioner's estimate of the annual salaries or wages of the number of individuals who will be retained can reasonably be expected to result from the installation of new manufacturing equipment.
4. The totality of the benefits of the proposed installation of additional new manufacturing equipment is sufficient to justify a ten (10) year personal property tax deduction from assessed valuation to result therefrom under Indiana statutes, and each such deduction should be, and is hereby, allowed.
9. That the petition for designating the subject property as an Economic Revitalization Area for the purposes of ten (10) year personal property tax abatement and the Statement of Benefits are hereby approved, and the property is hereby designated as an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-1 et seq.

Presented by:



Neil Garrison, Councilman

Passed in open Council this _____ day of April, 2010.

Neil Garrison, President
Common Council of Terre
Haute, Indiana

ATTEST:

Charles P. Hanley, City Clerk

Presented by me to the Mayor this _____ day of April, 2010.

Charles P. Hanley, City Clerk

Approved by me this _____ day of April, 2010.

Duke A. Bennett, Mayor, City
of Terre Haute

ATTEST:

Charles P. Hanley, City Clerk

PUBLIC HEARING held this _____ day of April, 2010.

Neil Garrison, President
Common Council of Terre
Haute, Indiana

This instrument was prepared by Richard J. Shagley, WRIGHT, SHAGLEY & LOWERY, P.C.,
500 Ohio Street, Terre Haute, IN 47807, (812) 232-3388.

EXHIBIT A
LEGAL DESCRIPTION

A parcel of land described as follows: Beginning at the Northwest corner of the Northeast Quarter of Section 12, Township 12 North, Range 9 West in Harrison Township, Vigo County, Indiana; thence south 0 degrees 03 minutes 00 seconds West, 1,109.19 feet; thence North 89 degrees 97 minutes 98 seconds West, 990.00 feet; thence North 0 degrees 09 minutes 12 seconds East, 232.30 feet; thence North 89 degrees 97 minutes 98 seconds West, 109.73 feet; thence North 0 degrees 09 minutes 12 seconds East, 323.43 feet; thence North 89 degrees 97 minutes 29 seconds West, 318.09 feet; thence North 0 degrees 07 minutes 49 seconds East, 979.91 feet to the North Section line; thence South 88 degrees 11 minutes 99 seconds East, 977.10 feet, to the point of beginning.

Commonly known as 3181 N. Fruitridge Avenue, Terre Haute, Indiana.

AND

A parcel of land described as follows: Commencing at the Northwest corner of the Northeast $\frac{1}{4}$ (NE $\frac{1}{4}$) of Section 12, Township 12 North, Range 9 West, Harrison Township, Vigo County, Indiana, thence South 88 degrees 17 minutes 90 seconds East along centerline Fort Harrison Road 447.34 feet to the centerline of Aberdeen Avenue, South 00 degrees 09 minutes 90 seconds East along and with the centerline said road 220.62 feet to the place of beginning. Thence South 00 degrees 09 minutes 90 seconds East along and with the centerline said road 1349.38 feet to the North line extended of a tract as conveyed by Deed Record 388 Page 267-1 Records of Vigo County Recorder thence North 88 degrees 17 minutes 90 seconds West along and with the North line said tract 490.07 feet to the West line of the Northeast $\frac{1}{4}$ (NE $\frac{1}{4}$) said Section 12, North 00 degrees 03 minutes 90 seconds West along and with the West line of said Northeast $\frac{1}{4}$ (NE $\frac{1}{4}$) 1349.30 feet; South 88 degrees 17 minutes 90 seconds East 447.72 feet to the place of beginning and containing 13.898 acres, more or less.

Commonly known as 1800 N. Fruitridge Avenue, Terre Haute, Indiana.

FINAL ACTION BY COMMON COUNCIL OF THE
CITY OF TERRE HAUTE, INDIANA REGARDING
RESOLUTION NO. 13, 2010

WHEREAS, the Common Council of the City of Terre Haute, unanimously adopted Resolution No. 13, 2010 on the 15th day of April, 2010, and pursuant to Indiana Law has published notice of the adoption and substance of said Resolution, including a description of the effected area and notice that a description of the effected area is available for inspection in the office of the County Assessor and further stating a date which the Common Council would receive and hear remonstrances and objections; and

WHEREAS, the Common Council has conducted the hearing as required by law and has received no remonstrances or objections to designation of the effected area as an Economic Revitalization Area or to approval of the Statement of Benefits; and

WHEREAS, said matter is before the Common Council for final action pursuant to Indiana law; and

WHEREAS, the Common Council has received and examined, prior to said hearing, (i) a Statement of Benefits on the form prescribed by the State Board of Tax Commissioners and proper application for designation; (ii) an Agreement with the Board of Public Works for the City of Terre Haute; and (iii) has heard all appropriate evidence concerning the proposed project and is found and does find:

1. The age, deterioration and size of the existing manufacturing improvement and facilities on the subject real property render such to be technologically and economically obsolete and without redevelopment and rehabilitation may lead to decline in employment and tax revenues.

2. That the personal property tax abatement satisfies the requirements of Special Ordinance No. 11, 1997, as amended by the Common Council.

3. That the estimate of cost of the new manufacturing equipment is reasonable for equipment of that type.

4. That the estimate of individuals whose employment will be retained as a result of the installation of the new manufacturing equipment can reasonably be expected to result from the proposed project.

5. The estimate of annual salaries of those individuals whose employment will be retained can reasonably be expected to result from the proposed installation of the new manufacturing equipment.

6. That the benefits can reasonably be expected to result from the proposed installation of new manufacturing equipment.

7. That Petitioner has met, or exceeded, the benefits stated in Petitioner's prior Statement of Benefit forms as seen in the Compliance with Statement of Benefits form filed with the County Auditor.

8. That the totality of benefits sufficient to justify the deduction.

9. All qualifications for establishing an Economic Revitalization Area have been met.

NOW, THEREFORE, for final action on Resolution No. 8, 2009, the Common Council of the City of Terre Haute, Indiana, RESOLVES, and FINDS, and DETERMINES:

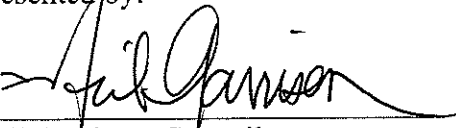
1. That all the requirements for designation of the real estate described in Resolution No. 13, 2010, as an Economic Revitalization Area have been met, the foregoing findings are true and that all information required to be submitted has been submitted in proper form.

2. That Resolution No. 13, 2010, is in all respects confirmed and approved (as modified to incorporate therein this final action) and the benefits of the proposed redevelopment are sufficient to justify ten (10) year personal property tax abatement under Indiana statutes for the proposed acquisition of the equipment described in the Statement of Benefits of Sony DADC US, Inc. and the deduction for the proposed project and acquisition of the equipment and the Statement of Benefits submitted by Sony DADC US, Inc. is approved and that the real estate described in Resolution No. 13, 2010, is declared an Economic Revitalization Area for the purposes of ten (10) year personal property tax abatement, and the said real estate is hereby designated an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-1 et seq.

3. That said Resolution supplements any other designation of the real estate as an Economic Revitalization Area.

4. That this final action, findings and confirmation of Resolution No. 13, 2010, shall be incorporated in and be a part of Resolution No. 13, 2010.

Presented by:


Neil Garrison, Councilman

Passed in open Council this _____ day of May, 2010.

Neil Garrison, President
Common Council of Terre
Haute, Indiana

ATTEST:

Charles P. Hanley, City Clerk

Presented by me to the Mayor this _____ day of May, 2010.

Charles P. Hanley, City Clerk

Approved by me this _____ day of May, 2010.

Duke A. Bennett, Mayor, City
of Terre Haute

ATTEST:

Charles P. Hanley, City Clerk

This instrument prepared by: Richard J. Shagley, WRIGHT, SHAGLEY & LOWERY, P.C., 500
Ohio Street, Terre Haute, IN 47807.

**CITY OF TERRE HAUTE
PETITION FOR PERSONAL PROPERTY
TAX ABATEMENT CONSIDERATION**

SONY DADC US, INC., formerly known as SONY DIGITAL AUDIO DISC CORPORATION, as owner of real property located within the City of Terre Haute, hereby petitions the Common Council of the City of Terre Haute for personal property tax abatement consideration pursuant to I.C. 6-1.1-12-.1-1, et seq. and in support of this petition states the following:

1. The project, Sony DADC US, Inc. proposes, includes installation of new machinery and equipment to expand capacity of existing product lines to meet market demand for Blu-Ray.
2. This project, once completed, not counting labor hired for construction and installation, will provide the opportunity to retain at least 1200 jobs within the first year representing an annual payroll of \$56,846,658 as long as business conditions and sales of products permit.
3. That the estimated dollar value of this additional equipment is about \$23,521,000 in new manufacturing equipment.
4. That the manufacturing equipment for which tax abatement consideration is petitioned will be owned by Sony DADC US, Inc., 1800 North Fruitridge Avenue, Terre Haute, Vigo County, Indiana.
5. The commonly known address of the location of the property and equipment is 1800 and 3181 North Fruitridge Avenue, Terre Haute, Indiana, a legal description of which is attached hereto, and marked as Exhibit "A" and is incorporated herein.
6. The best estimate of the amount of taxes being and to be abated for the new manufacturing equipment is set forth in the "Sony DADC US, Inc., Estimated Tax Abatement", which is attached hereto, made a part hereof and marked as Exhibit "B".
7. No public financing is being used for any phase of the project.
8. In view of the foregoing circumstances, Sony DADC US, Inc. in good faith applies for a ten (10) year tax abatement for new manufacturing equipment, as above set forth.
9. Indiana State Form 51764 (R/1-06), Statement of Benefits, as prescribed by the Indiana State Board of Tax Commissioners, which contains confidential information pursuant to the provisions of I.C. 6-1.1-39-9, will be submitted by Sony DADC US, Inc. to the members of the Common Council at an appropriate time and manner for consideration to preserve its confidentiality.

10. The current use of the Property is manufacturing and the current zoning is M-2 Manufacturing District.

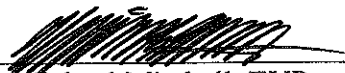
11. Sony DADC US, Inc. agrees to enter into an Agreement with the Board of Public Works and Safety for the City of Terre Haute, Indiana, in substantially the same form as is attached hereto and made a part hereof as Exhibit "C", and further, Sony DADC US, Inc. agrees to comply with Special Ordinance 11, 1997, as amended.

12. The person to contact as the Petitioner's agent regarding additional information and the public hearing notifications is:

Mr. Michael Mitchell
EVP and CTO
Sony DADC US, Inc.
1800 North Fruitridge Avenue
Terre Haute, IN 47804

WHEREFORE, Petitioner, Sony DADC US, Inc., requests that the Common Council of the City of Terre Haute, Indiana, adopt a declaratory resolution declaring and designating the area described herein to be an Economic Revitalization Area for purposes of personal property tax abatement consideration, and after publication of notice and public hearing, determine qualifications for an economic revitalization area have been met and confirm such resolution.

Sony DADC US, Inc.

By: 
Michael Mitchell, EVP and CTO of Sony
DADC US, Inc.

This instrument was prepared by Richard J. Shagley, WRIGHT, SHAGLEY & LOWERY, P.C., 900 Ohio Street, P.O. Box 8448, Terre Haute, IN 47808-8448, (812) 232-3388.

EXHIBIT A
LEGAL DESCRIPTION

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AND

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Commonly known as 1800 N. Fruitridge Avenue, Terre Haute, Indiana.

EXHIBIT B

Sony DADC US, Inc.

ESTIMATED PERSONAL PROPERTY TAX ABATEMENT

Tax Year	Cost	True Tax Value	Tax Rate	Gross Tax	Estimated State Replacement Credit Rate	Estimated State Replacement Credit	Net Tax	Tax Abatement %	Estimated Tax Abatement
1	\$23,521,000.00	\$9,400,000.00	3.6216%	\$340,430.00	8.60%	\$29,276.00	\$311,154.00	100%	\$311,154.00
2	\$23,521,000.00	\$9,400,000.00	3.6216%	\$340,430.00	8.60%	\$29,276.00	\$311,154.00	90%	\$280,038.00
3	\$23,521,000.00	\$9,400,000.00	3.6216%	\$340,430.00	8.60%	\$29,276.00	\$311,154.00	80%	\$248,923.00
4	\$23,521,000.00	\$9,400,000.00	3.6216%	\$340,430.00	8.60%	\$29,276.00	\$311,154.00	70%	\$217,807.00
5	\$23,521,000.00	\$9,400,000.00	3.6216%	\$340,430.00	8.60%	\$29,276.00	\$311,154.00	60%	\$186,692.00
6	\$23,521,000.00	\$9,400,000.00	3.6216%	\$340,430.00	8.60%	\$29,276.00	\$311,154.00	50%	\$155,577.00
7	\$23,521,000.00	\$9,400,000.00	3.6216%	\$340,430.00	8.60%	\$29,276.00	\$311,154.00	40%	\$124,461.00
8	\$23,521,000.00	\$9,400,000.00	3.6216%	\$340,430.00	8.60%	\$29,276.00	\$311,154.00	30%	\$93,346.00
9	\$23,521,000.00	\$9,400,000.00	3.6216%	\$340,430.00	8.60%	\$29,276.00	\$311,154.00	20%	\$62,230.00
10	\$23,521,000.00	\$9,400,000.00	3.6216%	\$340,430.00	8.60%	\$29,276.00	\$311,154.00	10%	<u>\$31,115.00</u>
Total Tax Abated									\$1,711,343.00

EXHIBIT C
AGREEMENT

This Agreement (the "Agreement") dated as of the ____ day of _____, 2010, serves as a confirmation of Sony DADC US, Inc., formerly known as Sony Digital Audio Disc Corporation (the "Applicant") commitment, pending an May 13, 2010 public hearing, to comply with the project description, job retention (and associated wage rates and salaries) figures contained in its designation application, Statement of Benefits, the Preliminary Economic Revitalization Area Resolution No. 13, 2010 and attachments adopted by the Common Council of the City of Terre Haute, Indiana (the "Council") on April 15, 2010 and this Agreement (the "Commitment").

Subject to the adoption of a Final Economic Revitalization Area Resolution by the Council, the City of Terre Haute, Indiana (the "City") commits to providing a ten (10) year personal property tax abatement for the Applicant's capital expenditure of up to \$23,521,000 associated with the installation of new equipment (the "Project") described and approved as part of the Commitments. The Project will retain 881 hourly permanent positions (average wage rate of \$19.43 per hour, excluding benefits & overtime) and will retain 319 salaried positions (average annual salary of \$66,588 excluding benefits). The capital expenditure for the Project and the retention of such positions shall occur within two (2) years of the estimated completion date of December 31, 2010 contained in the approved Statement of Benefits Form SB-1 (the "Commitment Date").

During the term of the abatement, the City may annually request, in writing, information from the Applicant concerning the status of the Project, the approved capital expenditure for the Project, the number of full-time permanent positions retained by the Project, and the average wage rates and salaries (excluding benefits & overtime) associated with the position, and the Applicant shall provide the City with adequate written evidence thereof within 19 days of such request (the "Annual Survey"). The Applicant shall provide a copy of the annual CF-1 to the Board of Public Works and Safety at the same time the CF-1 is filed with the County. The City shall utilize this information to verify that the Applicant has complied with the commitments contained in "the Commitments" at all times after the Commitment Date and during the duration of the abatement. The Applicant further agrees to provide the City with such additional information requested by the City related to the information provided in the Annual Survey and the CF-1 form within a reasonable time following any such additional request.

The City, by and through the Council, reserves the right to terminate the Economic Revitalization Area designation and associated property tax abatement deductions if it determines that the Applicant has not made reasonable efforts to substantially comply with all the commitments, and the Applicant's failure to substantially comply with the Commitments was not due to factors beyond its control. As used in the Agreement, "substantial compliance" shall mean the Applicant's compliance with the following: Making capital expenditures of up to \$23,521,000 for the Project; the retention of not less than 881 of the permanent full-time retained hourly positions with average hourly wage rates of \$19.43 (excluding benefits and overtime) and the retention of 319 of the full-time retained salaried positions with average annual salaries of not less than \$66,588 (excluding benefits).

As used in this Agreement, factors beyond the control of the Applicant shall only include factors not reasonably foreseeable at the time of the designation application and submission of Statement of Benefits which are not caused by any act or omission of the Applicant and which materially and adversely affect the ability of the Applicant to substantially comply with this Agreement.

If the City terminates the Economic Revitalization Area designation and associated tax abatement deductions, it may require the Applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. The amount of tax abatement required to be repaid for each year of noncompliance shall not exceed an amount equal to the percentage by which the Applicant has failed to attain substantial compliance in position retention and/or creation and average hourly wage rate and salary categories multiplied by the dollar amount of taxes actually abated. If the Applicant fails to substantially comply with more than one of the aforementioned categories, repayment shall be based on the highest level of noncompliance.

If at any time during the term of this Agreement, whether before or after the Commitment Date, the Applicant shall: (i) cease operations at the facility for which the tax abatement was granted: or (ii) announce the cessation of operations at such facility, then the City may immediately terminate the Economic Revitalization Area designation and associated future tax abatement deductions.

In the event the City requires repayment of the tax abatement savings as provided hereunder, it shall provide Applicant with a written statement calculating the amount due (the "Statement"), and Applicant shall make such repayment to the City within 30 days of the date of the Statement. If the Applicant does not make timely repayment, the City shall be entitled to all reasonable costs and attorneys fees incurred in the enforcement and collection of the tax abatement savings required to be repaid hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

"Applicant"

**Sony DADC US, Inc. formerly known as
Sony Digital Audio Disc Corporation**

**Board of Public Works
City of Terre Haute**

By: _____

Michael Mitchell, EVP and CTO
of Sony DADC US, Inc.

Approved as to Legal Adequacy and Form on this _____ day of _____, 2010.

By: _____

Title: _____